

§ 1606.5 Informal conference.

On timely request by the recipient, the Corporation employee who made the preliminary determination shall promptly conduct an informal conference with the recipient at a time and place designated by the employee. The parties thereto shall exchange views, seek to narrow the issues, and explore the possibilities of settlement or compromise. At the conclusion of the conference, which may be adjourned for deliberation or consultation, the Corporation employee may, in writing, modify, withdraw, or affirm the preliminary determination. The recipient may, within 5 days thereafter, make written request for a hearing under §§ 1606.8 through 1606.14 of this part.

[43 FR 32770, July 28, 1978. Redesignated and amended at 48 FR 54199, Nov. 30, 1983]

§ 1606.6 Initiation of proceedings.

Within 10 days after receipt of a request for a hearing made under § 1606.4(b) or § 1606.5, the Corporation shall notify a recipient in writing of:

- (a) The name of the presiding officer, and of the attorney who will represent the Corporation;
- (b) The date, time and place scheduled for a prehearing conference, if any should be requested or ordered; and
- (c) The date, time and place scheduled for the hearing.

[43 FR 32770, July 28, 1978. Redesignated and amended at 48 FR 54199, Nov. 30, 1983]

§ 1606.7 Presiding officer.

(a) The presiding officer shall be appointed by the President, and shall be a person who is familiar with legal services and supportive of the purposes of the Act, who is independent, and who is not an employee of the Corporation.

(b) Within 5 days of receipt of the notice required under § 1606.6, the recipient shall notify the Corporation if it objects to the presiding officer on the grounds that the person does not satisfy the criteria stated in § 1606.7(a), or is personally biased. The notice shall state the specific facts and documents that the recipient contends support its objection, and, if a pre-hearing conference has not been scheduled, shall

request a pre-hearing conference for the purpose of presenting the objection. At the pre-hearing conference, the recipient and the Corporation may question the presiding officer for a reasonable period of time on matters relevant to the recipient's objection.

(c) The recipient shall, within 5 days following the pre-hearing conference, notify the Corporation of any further facts that it contends support its objections. The President shall, within 10 days following the pre-hearing conference, either sustain the objection and appoint a new hearing officer or overrule the objection.

(d) No objection to the appointment of a presiding officer may be made unless presented in the manner specified by this section.

[43 FR 32770, July 28, 1978. Redesignated and amended at 48 FR 54199, Nov. 30, 1983]

§ 1606.8 Pre-hearing conference.

(a) A pre-hearing conference may be ordered by the presiding officer, and shall be ordered if requested by either the recipient or the Corporation. The matters to be considered at the conference shall include:

- (1) Proposals to define and narrow the issues;
- (2) Efforts to stipulate the facts, in whole or in part;
- (3) The probable number, identity, and order of presentation of exhibits and witnesses;
- (4) On the agreement of the parties, the possibility of presenting the case on written submission or oral argument;
- (5) The desirability of advance submission of some or all of the direct testimony in writing;
- (6) Any necessary variation in the date, time and place of the hearing;
- (7) Discussion of settlement; and
- (8) Such other matters as may be appropriate.

(b) In advance of the pre-hearing conference, the presiding officer may require a party to submit a written statement discussing any matter described in paragraph (a) of this section. After the pre-hearing conference, the presiding officer may establish the procedures, consistent with this part, to be followed at the hearing.

(c) The presiding officer may, at the pre-hearing conference or at any subsequent appropriate time prior to completion of the hearing, require the Corporation or the recipient, on sufficient notice, to produce a relevant document in its possession, to make a report not unduly burdensome to prepare, or to produce a person in its employ to testify, if any might offer a relevant and substantial addition to the accuracy or completeness of the record. With the consent of the presiding officer, a party may make a written submission before the hearing.

[43 FR 32770, July 28, 1978. Redesignated at 48 FR 54199, Nov. 30, 1983]

§ 1606.9 Conduct of hearing.

(a) The hearing shall be scheduled to commence at the earliest appropriate date, ordinarily not later than 30 days after the notice required by § 1606.6, and, whenever practical, shall be held at a place convenient to the recipient and the community it serves. A hearing affecting more than one community or recipient shall be held in a single centrally located place unless the presiding officer determines that an additional hearing place is required.

(b) The presiding officer shall preside, conduct a full and fair hearing, avoid delay, maintain order, and insure that a record sufficient for full disclosure of the facts and issues is made. The hearing shall be open to the public unless, for good cause and in the interests of justice, the presiding officer shall determine otherwise.

(c) The presiding officer may allow any interested person or organization to participate in the hearing if such participation will not broaden the issues unduly or cause delay, and will aid in proper determination of the issues.

(1) A person or organization wishing to participate in a hearing shall request permission from the presiding officer, stating the reason for the request, and the nature of the evidence or argument to be offered; and shall notify the Corporation and the recipient of its request.

(2) The presiding officer shall notify the Corporation, the recipient, and the person or organization requesting participation whether the request has been granted, and in case of denial

shall include a brief statement of the reasons therefor.

(3) The presiding officer may limit the scope or form of participation authorized under this paragraph.

(d) The Corporation and the recipient each may present its case by oral or documentary evidence, conduct examination and cross-examination of witnesses, examine any document submitted by another party, and submit rebuttal evidence.

(e) If a party fails, without good cause, to produce a person or document required under § 1606.8(c), the presiding officer may make an adverse finding on the fact or issue with respect to which production was required.

(f) Technical rules of evidence shall not apply. The presiding officer shall make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(g) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in a Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(h) A stenographic or electronic sound record, or a summary of the hearing shall be made in a manner determined by the presiding officer, and a copy shall be made available to a party upon payment of its cost.

[43 FR 32770, July 28, 1978. Redesignated and amended at 48 FR 54199, Nov. 30, 1983; 50 FR 30713, July 29, 1985]

§ 1606.10 Burden of proof.

At a hearing under § 1606.9:

(a) The Corporation shall have the obligation of proving, by a preponderance of the evidence, the existence of any disputed fact relied upon as justification for termination; and

(b) On all other issues, the Corporation shall have the obligation of establishing a substantial basis for terminating the grant or contract.

[43 FR 32770, July 28, 1978. Redesignated and amended at 48 FR 54199, Nov. 30, 1983]